

Notice of Allowability

Application No.

09/701,376

Examiner

Callie E. Shosho

Applicant(s)

KOBAYASHI ET AL.

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed 5/24/04 and telephonic interview conducted 6/16/04.
2. ☒ The allowed claim(s) is/are 1-15.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 6/16/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Callie E. Shosho
Primary Examiner
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Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

(1) Claim 10, line 2, after "soluble" and before "of", delete "has a content" and insert "is present in an amount".

(2) Claim 11, line 2, after "soluble" and before "of", delete "has a content" and insert "is present in an amount".

2. Authorization for this examiner's amendment was given in a telephone interview with Stefan Koschmieder on 6/16/04.

Statement of Reasons for Allowance

3. The present claims are allowable over the "closest" prior art Watanabe et al. (U.S. 5,684,099) for the following reasons:

Watanabe et al. disclose resin composition for automobile parts comprising (i) propylene-ethylene block copolymer wherein the copolymer comprises propylene homopolymer, i.e. xylene insoluble, which has stereoregularity index [mmmm] fraction, i.e. isotactic pentad fraction, of 98% or greater and 3-50% ethylene-propylene copolymer, i.e. xylene soluble, and possesses melt flow rate of 0.1-500 g/10 min and (ii) 0.05-0.5% based on amount (i) of nucleating agent such as sodium 2,2-methylenebis-(4,6-di-t-butylphenyl) phosphate. However, there is no disclosure in Watanabe et al. of melt flow rate of the resin composition as required in all the present claims. Further, there is no disclosure or suggestion of relaxation time and thus, no disclosure that the relaxation time of the xylene soluble satisfies presently claimed formula I as required in all the present claims. Further, while Watanabe et al. do disclose nucleating agent including methylenebis(2,4-di-t-butylphenol) acid sodium phosphate as presently claimed, methylenebis(2,4-di-t-butylphenol) acid sodium phosphate is but one of several nucleating agents disclosed by Watanabe et al. with no disclosure or suggestion to select out methylenebis(2,4-di-t-butylphenol) acid sodium phosphate as more favorable than the other nucleating agents.

The above is especially significant in light of applicants' 1.132 declaration filed 4/7/04 which compares resin compositions as found in each of the examples of Watanabe et al. with presently claimed resin compositions. The declaration compares the compositions of Watanabe et al. and those presently claimed in terms of the Izod impact strength at -20 °C (It is noted that

as set forth on pages 4-5 of the response filed 5/24/04, the disclosure in Table 6 of Watanabe et al. that Izod impact strength is measured in units of hr.cm/cm is a typographical error and thus, as set forth on page 2 of the 1.132 declaration, the correct units of Izod impact strength for the compositions of Watanabe et al. is in fact kg.cm/cm). The declaration shows that the presently claimed compositions are superior in terms of Izod impact strength at -20 °C. Thus, the declaration is successful in establishing unexpected or surprising results over Watanabe et al.

In light of the above, the present claims are passed to issue.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Callie E. Shosho
Primary Examiner
Art Unit 1714

CS
6/16/04